REMARKS

Claims 1-14 are in the application. Claims 1, 4, 10, 12, and 14 are currently amended; claims 7 and 11 were previously presented; and claims 2, 3, 5, 6, 8, 9, and 13 remain unchanged from the original versions thereof. Claims 1, 10, 12, and 14 are the independent claims herein.

No new matter is added to the application as a result of the amendments submitted herewith. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 112, 2nd Paragraph

The Office Action stated that the terms "**relative sizes and substantially**" in claim 10 were relative terms that rendered the claim indefinite; the terms "**relative sizes and substantially**" were not defined by the claim; the specification do not provide a standard for ascertaining the requisite degree; and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention.

In an effort to advance prosecution of the application, claim 10 is currently amended to address the issues regarding the 35 USC § 112, 2nd paragraph rejection. In particular, the term "substantially" is deleted from the claim, and portions of the claim including the term "relative sizes" are also deleted. For example, claim 10 now reads, in part, "determine a size of the first sub-portion relative to a size of the second sub-portion" Thus, it is clear that the recited first sub-portion is sized relative to the size of the second sub-portion.

Applicant respectfully submits that the claim 10 is sufficiently clear and definite under 35 USC 112, 2nd paragraph and requests the reconsideration and withdrawal of the 35 USC § 112, 2nd paragraph rejection.

Claim Rejections – 35 USC § 103(a)

Claims 1-9 and 12-14 were rejected as being unpatentable over Statement of Financial Accounting Standards No. 133 - Accounting for Derivative Instruments and Hedging Activities, Nov. 1998 (Vol. 186, Iss. 5; 12 pages) by Edmund L. Jenkins (hereinafter, Jenkins) in view of U.S. Patent No. 6,360,210 to Wallman (hereinafter, Wallman). This rejection is traversed.

Applicant respectfully notes that claim 1 relates to a hedge accounting method implemented by a programmed computer system for reducing periodic earnings volatility associated with a hedging transaction. In particular, claim 1 is currently amended to state, in part,

> in each of a plurality of sequential periods, processing data on the computer to compute a redesignation for accounting purposes of the portion of the financial exposure based on changed price sensitivity of the hedging instrument, to reduce periodic earnings volatility associated with a hedging transaction. (emphasis added)

Applicant notes that claim 1 now claims that the recited processing is to reduce periodic earnings volatility associated with a hedging transaction. Thus, it is clear that Applicant claims computing a redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument, to reduce periodic earnings volatility associated with a hedging transaction.

The Office Action cites and relies upon Wallman only for allegedly disclosing a processing data on a computer to compute.

Jenkins discloses accounting and reporting standards for derivative instruments and hedging activities. Jenkins discloses, for example, classifications for derivatives (e.g., not a hedging instrument, a fair value hedge, a cash flow hedge, and a foreign currency hedge), depending on the attributes of the derivative. Also, Jenkins discloses how a gain or loss of a derivative instrument designated and qualifying as a fair value hedging, a cash flow hedging, and a foreign currency hedge shall be accounted. Jenkins discloses that the gains or losses are to be accounted for as, for example,

earnings and other comprehensive income (OCI). (See Jenkins page 9, para. 18) Jenkins also states that the hedging relationship is expected to be "highly effective" and that an assessment of the effectiveness is required whenever financial statements or earnings are reported (See Jenkins, page 10, para. 20, (2)b.) Furthermore, Jenkins states, "[A]t inception of the hedge, there is formal documentation of the hedging relationship and the entity's risk management objective and strategy for undertaking the hedge, including identification of the hedging instrument, the hedged item, the nature of the risk being hedged, and how the hedging instrument's effectiveness in offsetting the exposure to changes in the hedged item's fair value attributable to the hedged risk will be assessed. There must be a reasonable basis for how the entity plans to assess the hedging instrument's effectiveness." (See Jenkins, page 10, para. 20. b.)

However, the cited and relied upon Jenkins accounting standard does not appear to disclose or even suggest any method for reducing periodic earnings volatility associated with a hedging transaction. This claimed aspect does not appear to be a concern of the cited and relied upon financial standard. Applicant respectfully refers to the Specification wherein it is disclosed that accounting per the FAS 133 standard (i.e., the cited and relied upon Jenkins) may have the effect of increasing quarterly earnings volatility. (See Specification, page 8, ln. 17-26) That is, accounting as prescribed by Jenkins may have undesirable results. The claimed methods are directed to and claim processes to address the undesired effects that may be had as a result of implementing Jenkins' required accounting.

That is, Jenkins provides a required standard for accounting of derivatives and hedge instruments. The disclosed standard may introduce other problems (e.g., periodic earnings volatility associated with a hedging transaction) that flow from the very accounting measures required by Jenkins. Applicant's claim method are thus processes not disclosed or suggested by Jenkins.

Thus, while Jenkins may disclose what is to be classified or designated as a hedge, how to account for the gains or losses associated therewith (e.g., earnings, OCI, etc.), and requirements for the designation of a hedge (i.e., must be "effective"), Jenkins

is silent regarding any disclosure or suggestion of a method to reduce periodic earnings volatility associated with a hedging transaction that may result from the very accounting practiced prescribed by Jenkins. In particular, Jenkins fails to disclose or suggest a method including redesignating (or even designating) a portion of a hedging instrument to reduce periodic earnings volatility associated with a hedging transaction, as claimed by Applicant.

The Office Action's reliance on Jenkins to support the statement, "that redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument would have been repeating the designation process of Jenkins" appears to be in opposition to the actual disclosure of Jenkins since Jenkins does not disclose or suggest a method including designating or redesignating a portion of a hedging instrument to reduce periodic earnings volatility associated with a hedging transaction.

Applicant respectfully submits that the asserted combination of Jenkins and Wallman fails to overcome the insufficient disclosure of Jenkins. That is, even if Jenkins were combined with Wallman as asserted by the Office Action (not admitted as feasible by Applicant), the combination fails to render the claims 1 and 10 obvious under 35 USC 103(a) for at least the reasons discussed in detail above. Again, Jenkins fails to disclose or suggest that for which it is cited and relied upon for disclosing. Namely, Jenkins fails to disclose or suggest redesignating a portion of a hedging instrument to reduce periodic earnings volatility associated with a hedging transaction, as claimed by Applicant.

Claims 2-9 depend from claim 1. The Office Action rejected claims 12-14 on the same basis and rationale provided regarding claim 1. Accordingly, Applicant respectfully submits that claims 1-9 and 12-14 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a).

Claims 10 and 11 were also rejected as being unpatentable over Jenkins in view of Wallman. This rejection is traversed.

Applicant respectfully submits that claims 10 and 11 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a) for at least reasons similar to those provided regarding claim 1. In particular, claim 10 recites, in relevant parts,

> on a computer system and prior to each of a series of sequential time periods, processing data and program instructions to cause the computer system to:
>
> calculate a designated portion of the total exposure value based on a current sensitivity of a price of the hedging instrument and the value of the exposure, and
>
> account for said change in market value of the hedging instrument offsetting said change in market value of the designated exposure as other than earnings, to reduce periodic earnings volatility associated with accounting for a hedging transaction

Thus, it is clear that the reasoning provided by Applicant hereinabove regarding claim 1 is applicable and sufficient to rebut the rejection of claims 10 and 11. Accordingly, Applicant respectfully submits that claims 10 and 11are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a).

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

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Date

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